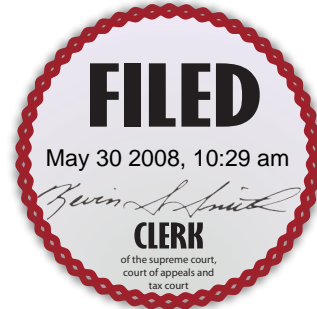


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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LUIS RAUL LOPEZ,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A05-0711-CR-633

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Carol Orbison, Judge  
Cause No. 49G22-0706-FA-100069

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**May 30, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**MATHIAS, Judge**

Luis Raul Lopez (“Lopez”) pleaded guilty to Class B felony aggravated battery and Class C felony carrying a handgun without a license in Marion Superior Court. He was ordered to serve an aggregate sentence of twenty-one years. Lopez appeals and argues that his sentence is inappropriate in light of the nature of the offense and the character of the offender. We affirm.

### **Facts and Procedural History**

On June 3, 2007, Lopez shot Iris Crouch (“Crouch”) in the face. Three days later, Lopez was charged with Class A felony attempted murder, Class B felony rape, Class C felony carrying a handgun without a license, and Class A misdemeanor carrying a handgun without a license. On October 3, 2007, the State filed an amended information adding a charge of Class B felony aggravated battery. That same day, Lopez pleaded guilty to Class B felony aggravated battery and Class C felony carrying a handgun without a license. The remaining charges were dismissed. The plea agreement did not contain any recommendation as to sentencing.

During the sentencing hearing, the trial court found the following aggravating circumstances:

[I]t is only by the grace of God that Iris Crouch is not dead. Standing over this lady who was lying on the floor, defenseless, aiming a gun at her face and shooting her in the face, I think it is an understatement to say that there was a substantial risk of death; that the facial injuries and fractured bone and whether or not she has been able to regain facial feeling and movement, I don’t know, but it is frightening to think what could have happened had that bullet entered maybe a fraction of an inch to one side or the other. The pictures reflect that the bullet exited her neck and how absolutely miraculous is it that she isn’t paralyzed, that it didn’t sever a major artery or enter her spinal column? It is just absolutely frightening to think of what could have happened and I find that to be a major aggravator.

Tr. pp. 29-30. The trial court also found Lopez's prior criminal history to be aggravating. The court considered Lopez's remorse and his acceptance of responsibility for his actions as mitigating, but concluded that the aggravating circumstances outweighed the mitigating circumstances. Lopez was then sentenced to consecutive terms of fifteen years for the Class B felony aggravated battery conviction and six years for the Class C felony carrying a handgun without a license conviction, for an aggregate sentence of twenty-one years. Lopez now appeals.

### **Discussion and Decision**

Lopez argues that his aggregate twenty-one-year sentence is inappropriate in light of the nature of the offense and the character of the offender. Pursuant to Indiana Appellate Rule 7(B), our court "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." The burden is on the defendant to persuade us that his sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006).

A Class B felony conviction subjects the offender to a sentence in the range of six to twenty years, with the advisory sentence being ten years. Ind. Code § 35-50-2-5 (2004 & Supp. 2007). Lopez was sentenced to fifteen years for the Class B felony aggravated battery conviction. A Class C felony conviction subjects the offender to a sentence in the range of two to eight years, with the advisory sentence being four years. Ind. Code § 35-50-2-6 (2004 & Supp. 2007). Lopez was sentenced to six years for his Class C felony carrying a handgun without a license conviction.

Lopez argues that his aggregate twenty-one year sentence is inappropriate because he expressed remorse for shooting Crouch in the face. The trial court acknowledged Lopez's expression of remorse and considered it as mitigating, but also stated, "I am not certain what the remorse is all about: whether it is remorse at having been or being before this Court under the circumstances, or whether it is remorse for having so seriously injured this lady[.]" Tr. p. 29.

Although Lopez's expression of remorse reflects favorably on his character to a certain degree, his criminal history does not. Lopez has prior convictions for Class D felony possession of cocaine and Class C felony carrying a handgun without a license. He violated his probation for the cocaine conviction and was on parole for the carrying a handgun without a license conviction on the date of these instant offenses.

As the trial court noted at sentencing, the nature of Lopez's offense supports the imposition of enhanced and consecutive sentences. Crouch and Lopez, who have a child together, began fighting after Crouch observed that Lopez had engaged in sexual relations with her cousin. Crouch threw a beer can at Lopez, and Lopez retaliated by striking Crouch and knocking her down to the floor. Then, while standing over Crouch, Lopez shot her in the face. Lopez's actions could have easily resulted in Crouch's death.

For all of these reasons, we conclude that Lopez's twenty-one year aggregate sentence is not inappropriate in light of the nature of the offense and the character of the offender.

Affirmed.

MAY, J., and VAIDIK, J., concur.